

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

PATRICK MOXHET, ANTHONY JOHNSON, DANNY JOHNSON and JAMES KEITT,)	Civil Action No. 4:13-cv-896-BHH
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)	Plaintiffs,) <u>OPINION AND ORDER</u>
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TELSTAR CABLE COMMUNICATIONS, INC., and DAWN COLLINS and JAMES COLLINS, Individually,))
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)	Defendants.)
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This matter is before the Court on the Report and Recommendation (ECF No. 93) of United States Magistrate Judge Kaymani D. West recommending that the defendant Telstar Cable Communications Inc.'s motion to set aside entry of default (ECF No. 75) be granted. After carefully reviewing the Report and Recommendation, the Court adopts the Report and Recommendation in full.

On August 22, 2014, Defendant Telstar Cable Communications, Inc. ("the defendant") filed a motion to set aside entry of default. (ECF Nos. 75, 80.) The plaintiffs Patrick Moxhet, Anthony Johnson, Danny Johnson and James Keitt ("the plaintiffs") filed a response in opposition (ECF No. 83), and the defendant filed a reply (ECF No. 86). On November 20, 2014, Magistrate Judge West issued a Report recommending that the defendant's motion to set aside default be granted because, *inter alia*, there is no showing of prejudice to the plaintiffs other than delay in the prosecution of the lawsuit. (ECF No. 93 at 5.). The plaintiff filed no objections and the time for doing so expired on December 8,

2014.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court reviews the Report and Recommendation only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation”) (citation omitted).

After reviewing the motion and response, the record, and the Report and Recommendation of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court adopts and incorporates the Report and Recommendation (ECF No. 93) by reference into this order. It is therefore ORDERED that the defendants’ motion to set aside default (ECF No. 75) is GRANTED.

IT IS SO ORDERED.

/s/ Bruce Howe Hendricks
United States District Judge

Greenville, South Carolina
December 15, 2014